Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the matter of	)	
	)	
Biennial Regulatory Review of Regulations	)	WC Docket No. 02-313
Administered by the Wireline Competition	)	
Bureau	)	

AT&T REPLY COMMENTS

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Pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, AT&T Corp. ("AT&T") submits this reply to comments of other parties filed in response to the Commission's *NPRM* in this proceeding.[1]

PRELIMARY STATEMENT AND SUMMARY

This proceeding is a continuation of the *2002 Biennial Regulatory Review* conducted pursuant to Section 11 of the Communications Act (47 U.S.C. § 161). In the earlier phase of this proceeding, the Commission in September 2002 requested and received extensive comments regarding proposals for modification or repeal of the agency's rules.[2] Based on the record compiled there, the Commission staff conducted a review of rules administered by those Bureaus and Offices to prepare recommendations

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1 *Biennial Regulatory Review of Regulations Administered by the Wireline Competition Bureau*, Notice of Proposed Rulemaking, WC Docket No. 02-313, FCC 03-337 (rel. January 12, 2004), *published at* 69 FR 12814, (March 18, 2004)("*NPRM*"). Comments in response to the *NPRM* were filed by the Association for Local Telecommunications Services ("ALTS"), Covad Communications ("Covad"), MCI, The National Organization For Women and 33 other organizations, filing jointly ("NOW et al."), The Rural Telecommunications Group ("RTG"), TDS Metrocom ("TDS"), the United States Telecom Association ("USTA"), and the Verizon Telephone Companies ("Verizon")

2 *The 2002 Biennial Regulatory Review*, GC Docket No. 02-390, Report, FCC 02-342 (rel. March 14, 2003 ("*2002 Report*"), ¶ 3.

for Commission action, and the staff's reports were released in March 2003 and made available for public comment. The *NPRM* (¶ 3) proposes action based on recommendations in the *WCB Staff Report* prepared by the Wireline Competition Bureau ("WCB"),[3] and seeks additional comment "on the specific proposed rule changes that are listed in the Appendix" to the *NPRM.*

Regrettably, but predictably, Verizon instead seeks to convert the *NPRM* into another front in its long running campaign to eliminate Commission regulations adopted to fulfill the Commission's statutory obligation under the Telecommunications Act of 1996 to protect and preserve emerging competition in local exchange and access markets. In the earlier phase of the *2002 Biennial Review*, Verizon claimed that the Commission was required under Section 11 to conduct the equivalent of a new rulemaking proceeding to re-adopt each and every rule that the Commission desires to retain – failing which all such regulations would be deemed repealed by operation of law. The *2002 Report* rejected that construction of the Commission's role under Section 11, and the Commission's determination was affirmed on appellate review.[4] Having failed in that attempt at wholesale elimination of Commission regulatory protection for the competitive process, Verizon now seeks to transform this proceeding into a forum for subverting major portions of that regime. Specifically, Verizon contends (at 6-23) that the Commission should substantially eliminate Title II regulation of broadband services

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3 *Wireline Competition Bureau, Federal Communications Commission, Biennial Regulatory Review 2002*, WCB Docket No. 02-313, CG Docket No. 02-390, Staff Report, DA 03-804, dated December 31, 2002 ("*WCB Staff Report*").

4 *Cellco Partnership, d/b/a Verizon Wireless v. FCC*, 357 F.3d 88 (D.C. Cir. 2004) ("*Cellco*").

provided by BOCs, including compliance with nondiscrimination obligations under the Commission's *Computer Inquiry* decisions. Further, Verizon requests (at 23-33) that the Commission "reform" pricing for unbundled network elements ("UNEs") by eliminating TELRIC rules.

The Commission must categorically reject Verizon's attempt to distort the scope of this proceeding in this manner. As a threshold matter, the Commission has made clear that this rulemaking is confined to addressing proposals in the *WCB Staff Report* and certain additional, specifically identified modifications in current regulatory requirements that are identified in the *NPRM*.[5] Verizon's indiscriminate attacks on broadband regulation and TELRIC pricing are so clearly at odds with the Commission's limited purposes here as to preclude their consideration for that reason alone.[6] Moreover, the Commission is already comprehensively addressing broadband regulation and UNE

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5 *NPRM*, ¶ 3 (describing scope of current proceeding); *see also, e.g., id.* ¶¶ 7-8 (jurisdictional separations rules); ¶¶ 16-19 (network notification change procedures by incumbent local exchange carriers); ¶¶ 36-38 (discontinuance notification process by non-dominant carriers).

6 In another proposal that is likewise beyond the scope of the *NPRM*, Verizon also argues (at 33-34) that the Commission should eliminate continuing property records rules. However, as AT&T showed in the earlier phase of the *2002 Biennial Review*, continuation of accounting and record keeping requirements is necessary to allow regulatory oversight of anticompetitive practices by incumbent local exchange carriers ("ILECs"). *See* AT&T Reply Comments filed November 4, 2002 ("*AT&T 2002 Reply Comments*") at 12-25. Nothing in Verizon's comments here dispels that showing. The *AT&T 2002 Reply Comments* also address USTA's comments on the present *NPRM*, which are almost entirely confined to resurrecting and resubmitting that organization's comments and reply comments in the earlier phase of the *2002 Biennial Review.*

pricing under TELRIC in other pending rulemakings.[7] The Commission has compiled an extensive record in those proceedings.[8] Verizon's transparent attempt to stage an "end run" here on the Commission's consideration of these matters in other pending dockets flies in the face of fundamental tenets of orderly administration of the Commission's regulatory authority, and should be dismissed out of hand.[9]

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7 *See Appropriate Framework for Broadband Access to the Internet over Wireline Facilities; Universal Service Obligations of Broadband Providers; Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements*, CC Docket Nos. 02-33, 95-20 and 98-10, Notice of Proposed Rulemaking, FCC 02-42 (rel. February 15, 2002) ("*Broadband Rulemaking*"); *Review of the Commission's Rules Regarding the Pricing of Unbundled Network Elements and the Resale of Services by Incumbent Local Exchange Carriers*, WC Docket 03-173, Notice of Proposed Rulemaking, FCC 03-224 (rel. September 15, 2003) ("*TELRIC NPRM*"). The Commission also has pending before it Verizon's July 1, 2003 "Petition for Expedited Forbearance from the Current Rules for the Unbundled Network Platform," on which the Commission has requested and obtained comments *See Public Notice*, DA 03-2189 (rel. July 3, 2003).

8 For example, in the pleading cycle on the pending *TELRIC NPRM*, AT&T alone has filed over 1,000 pages of comments and reply comments, with supporting declarations and other data. *See* AT&T Comments filed December 16, 2003; AT&T Reply Comments filed January 30, 2004. Similarly, AT&T filed extensive pleadings in the *Broadband Rulemaking* addressing the continuing applicability of *Computer Inquiry* nondiscrimination obligations. *See* AT&T Comments filed May 3, 2002, AT&T Reply Comments, filed July 1, 2002. And AT&T has also rebutted in detail Verizon's claims in its petition requesting "forbearance" from cost-based UNE rates (but, in fact, seeking promulgation of entirely new compensation and use restriction rules). *See* AT&T Opposition, filed August 18, 2003; Reply Comments of AT&T, filed September 2, 2003. AT&T refers the Commission to its filings in those proceedings for its response on the merits to Verizon's proposals on these matters in the present rulemaking.

9 However, the fact that Verizon has found it necessary to inject elimination of Commission application of TELRIC pricing into this rulemaking is in itself a telling tacit admission regarding the impermissibility of the pricing changes sought in Verizon's purported forbearance petition.

Verizon's diversionary efforts aside, the *NPRM* directly raises an issue with an important bearing on preservation of competition. Specifically, the Commission has requested comment on modifications to further strengthen its rules requiring notice from ILECs of network changes regarding retirement and replacement of copper loops and subloops on which competitive local exchange carriers ("CLECs") are critically dependent to provide service (including, in particular, broadband offerings). *See NPRM* ¶¶ 19-20. Like other commenters (*e.g.*, MCI at 4, TDS at 5 n.4), AT&T believes that the pro-competitive objectives of the Telecommunications Act of 1996 have been seriously disserved by the Commission's decision in the *Triennial Review Order* denying CLECs access to ILEC fiber and hybrid loops.[10] The Commission's decision there has afforded ILECs additional opportunities to entrench their monopoly power through copper retirements. However, as other commenters have recognized and as AT&T discusses below, especially in light of the *Triennial Review Order*'s determination the existing rules regarding copper loop retirement and replacement are grossly insufficient to preserve broadband competition and require significant revision.[11]

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10 *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-388, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (rel. August 21, 2003) ("*Triennial Review Order*").

11 Some of the commenters' proposals do not necessarily implicate changes in the Commission's existing rules. For example, Covad requests (at 3-6) that the Commission clarify that under current notification regulations ILECs are nonetheless required to discharge their contractual obligations to CLECs regarding existing service arrangements. The ILECs' duty to fulfill their contractual commitments is not affected by the current notification rules, but AT&T does not oppose Commission clarification of that obligation here.

Additionally, the Commission has requested comment on modifications of its Part 36 (jurisdictional separations), Part 54 (universal service) and Part 69 (access charge) rules. *See NPRM*, ¶¶7-9, 31-35, 42-46. While AT&T supports these Commission initiatives, as shown below, the Commission should further modify its separations rules to clarify those regulations and to bring Parts 36 and 54 into alignment.

Finally, the Commission has proposed to modify its Part 63 rules implementing Section 214 of the Communications Act to extend significantly the time within which customers may file objections to a non-dominant carrier's notice of service discontinuance. However, the proposed rule change is irreconcilable with the need freely to exit from a market, a requirement that the Commission has recognized is essential to foster a competitive marketplace. Accordingly, as AT&T also shows below the Commission's proposed modification should not be adopted. Indeed, the Commission should eliminate altogether its current requirement that non-dominant domestic carriers' Section 214 discontinuance filings must be placed on public notice, or in the alternative adopt regulations setting a strict time limit for the ministerial act of issuing such public notice.

ARGUMENT

I. THE COMMISSION SHOULD ADOPT AND FURTHER STRENGTHEN ITS PROPOSED MODIFICATIONS TO ILEC NETWORK CHANGE NOTICE OBLIGATIONS.

The *NPRM* (¶ 20) seeks comment on whether the Commission should further modify current Section 51.329(c)(1) of its rules to require that ILECs to "add[] specific titles to identify notice of replacement of copper loops or copper subloops" with fiber-to-the home ("FTTH") loops. AT&T strongly supports this bolstering of the

ILECs' present network change disclosure to assure that CLECs receive more timely and usable information about incumbent carriers' plans to replace copper facilities with fiber. CLECs that rely on copper loops to provision broadband service in competition with ILECs receive an immense volume of information about changes in incumbent carriers' network configurations.[12] All commenters that have addressed this issue recognize that requiring ILECs to identify specifically notices of replacement of copper loops and subloops will better allow competitors promptly to focus on such notices which critically affect a CLEC's ability to serve broadband customers.[13] Given the importance of this information for the preservation of competition, and the absence of any significant burden that providing specific titles on such notices would impose on ILECs, the Commission should proceed speedily to adopt this revision to its rules.

Moreover, as TDS points out (at 2-3), CLECs' ability to expeditiously identify notices of replacement of copper loops and subloops would be further facilitated by the Commission's prescription of uniform labeling for such notices by ILECs, which currently use inconsistent practices in providing disclosure of network changes. TDS also suggests (*id.*) that the Commission require separate titles to distinguish between notices that propose elimination of copper facilities and notices regarding changes from entirely copper based loops to hybrid copper/fiber loops. AT&T supports these additional proposals. Provision of notices with this uniform and more detailed

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12 *See* MCI at 6.

13 *See* ALTS at 3 ("current network modification rules allow the ILEC to essentially blindside CLECs and their customers"); Covad at 2; MCI at 6-7.

information would be useful to CLECs and would not impose any undue burden on ILECs.

Commenters on the *NPRM*'s proposal to add specific titles for copper loop retirement notices have suggested several additional modifications to related Commission procedures that warrant adoption. Even with more specific labeling of notices, CLECs may still face enormous burdens in using such information effectively. This is because under current Commission rules, CLECs are required to file objections to notices of replacement of copper loops with hybrid facilities within 9 business days following release of the Commission's public notice of such network changes.[14] And, while ILECs are required to individually serve CLECs with notifications for short-term replacements of copper loops, CLECs must rely on release of a public notice by the Commission for information regarding long-term replacements.

As ALTS (at 3-4) and MCI (at 13) point out, this limited procedural window has serious consequences for CLECs that will not be fully alleviated even if the Commission adopts its proposed modifications requiring additional labeling of ILEC notices.[15] MCI (at 11-12), Covad (at 2-3), and TDS (at 5) all show that the Commission should require that notices concerning all copper loop retirements must be provided directly by ILECs to each potentially affected CLEC and that such notices should contain individualized information including the CLEC's specific circuits (by circuit identifier)

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14 *See* 47 C.F.R. §§ 51.331(c), 51.333(c).

15 *See also* ALTS at 3-4 (noting that under the current level of disclosures CLEC must "guess whether one of its existing customers is implicated" by any given network modification).

that would be affected by the change. AT&T strongly supports these proposed revisions to the current notification requirements.[16]

Finally, AT&T supports MCI's proposals that: (a) the time period for both short- and long-term notifications be extended to at least 90 days, (b) the time period for filing objections to retirement of copper loops be extended to 30 days, and (c) CLECs be permitted to oppose retirement of ILEC copper loop retirements rather than simply to seek extension of the implementation dates. *See* MCI at 8-9, 13-15. As MCI correctly points out (at 14), an ILEC's retirement of copper loops or subloops may force a CLEC to cancel service to customers, creating a conflict between the current abbreviated notice period for such retirements and the CLEC's obligation under Section 63.71(c) of the Commission's rules (47 C.F.R. § 63.71(c)) to provide at least 30 days notice to customers of a service discontinuance. And, wholly apart from this inconsistency between the Part 51 and Part 63 rules, CLECs often require significant time beyond the current short-term notice period to implement alternative service arrangements to customers upon retirement of copper facilities. Both of these problems will be obviated by revising the current notice period for replacement of copper with hybrid loops to make it coextensive with the

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16 The Commission's notification requirements should be strengthened in this manner even if the Commission were not to adopt MCI's additional salutary proposals -- which AT&T also endorses -- to modify the timelines for filing objections to copper loop retirement notifications and to permit oppositions, rather than simply deferral, of the proposed retirements. *See* pp. 9-10, *supra*. As the comments explain, CLECs face a constant barrage of network modification notices that they must analyze to determine the impact on their customers and to make necessary plans to mitigate service disruptions to their customers. *See* ALTS at 3; MCI at 6. Requiring ILECs to provide sufficiently detailed information needed to perform these functions is all the more critical given the abbreviated timeframe for objection under the Commission's current copper retirement notification regime.

90 day notice period for replacement of copper with FTTH, and this modification should be adopted by the Commission.

MCI is likewise correct in pointing out (at 13-14) that, even under the current notice intervals, there is no logical reason to require CLECs to file objections within 9 business days for replacement of copper facilities that are not deemed final until 90 days after release of the Commission's public notice of those retirements. Applying such a deadline for filing objections to those retirements only further magnifies the already substantial burden on CLECs of the abbreviated period for filing objections. Moreover, there will be no reason to retain the 9 business day period for such filings with the Commission's adoption of a uniform 90 day minimum notice period for all copper retirements. Accordingly, AT&T supports MCI's proposal that CLECs' time for filings in response to ILEC copper retirement notices be extended to 30 days.[17] That revision will permit CLECs to conduct an orderly analysis of ILEC notices, prepare filings with the Commission and conduct any necessary planning for alternative service arrangements to customers, without in any way impairing the Commission's ability to review the ILECs' proposed retirements of copper loops and subloops.

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[17] Under the Commission's current rules, such CLEC filings are limited to requesting an extension of the date for retirement of the ILECs' copper loops and subloops. However, AT&T supports MCI's additional proposal (at 8-9) that CLECs be permitted in appropriate circumstances to oppose the retirement of copper loops and subloops when those facilities are critical to the ongoing provision of service to an affected CLEC's customers.

II. THE COMMISSION SHOULD FURTHER CLARIFY ITS PROPOSED REVISIONS TO PART 36 JURISDICTIONAL SEPARATIONS RULES TO FACILITATE REMOVING SUBSIDIES FROM ACCESS CHARGES.

The Commission proposes to modify and clarify the measurements that are to be used to apportion switching equipment and subscriber plant. Specifically, the Commission proposes modifications to section 36.2(b)(3) to specify that "holding time minutes" are to serve as the basis for "measuring the use of both local and toll switching plant." It also proposes that section 36.2(b)(3)(iv) be modified to reflect the current use of a 25 percent Gross Allocator for subscriber plant. In addition, the Commission proposes to modify Section 36.125(f) to specify how weighting factors are to be applied to apportion Central Office Equipment ("COE") Category 3 investment in study areas with fewer than 50,000 access lines.[18]

AT&T supports all of these proposed modifications to the current Part 36 rules. However, AT&T submits that certain rules should be further clarified to completely disaggregate the explicit subsidies contained in the Commission's Part 54 rules from its Part 36 and Part 69 rules. Specifically, the Commission can further simplify the application of the factor used to apportion COE Category 3 investment as currently written in Section 36.125(f) of the Rules. Additionally, since "holding time minutes" are the basis for measuring toll and local switching plant investment, the Commission should clarify its definition of holding time minutes. By modifying the proposed revision to Section 36.125(f) and clarifying the definition of holding time

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18 *NPRM*, ¶¶ 7-8.

minutes, the Commission can both further streamline its rules and ensure that local switching support is truly explicit and has been removed from access charges.

Section 36.125(f) of the Rules currently requires that LECs with fewer than 50,000 access lines allocate their COE Category 3 investment based on the lesser of 85 percent of the local switching investment or the sum of the interstate dial equipment minute ("DEM") factor and the difference between the 1996 interstate DEM and the 1996 interstate DEM multiplied by a weighting factor.[19] The difference between the 1996 interstate DEM and the "weighted" DEM is also described as the local switching support factor.[20]

Under the current rules, the local switching support factor is simply not necessary to determine the local switching revenue requirement in Part 36, but rather is used to develop the subsidies to be collected by the LEC under Part 54 of the rules. Currently Section 54.301 provides support with reference to the calculation of local switching costs that are to be used to establish access rates and also are intended to provide the measure of support that may be available to a LEC based on its own subscriber base.

It would be far simpler to apportion the COE Category 3 investment on the basis of the interstate dial equipment minute (DEM) factor alone. The removal of the local switching support factor from the Part 36 apportionment of COE Category 3

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19 The weighting is defined in Section 36.125(f) of the Commission's rules, 47 C.F.R. § 36.125(f).

20 *See* Section 54.301(a)(2), 47 C.F.R. § 54.301(a)(2).

investment will eliminate the need to identify and remove the subsidies from the local switching revenue requirement, as existing rules require, attributed to the weighting embedded in the factor.

By this proposal, AT&T is not suggesting that the frozen local switching support factor be eliminated in the calculation of local switching support as required by Section 54.301, but merely that it be removed from the Part 36 cost studies. Rural carriers with fewer than 50,000 access lines will continue to receive local switching support based on weighted interstate DEM factors. By simplifying the Part 36.125(f) DEM factor used to apportion local switching costs in a Part 36 cost study without the local switching support factor, and by continuing to have Section 54.301 define the explicit local switching support, the Commission can eliminate a known source of confusion.

Additionally, the Commission should expressly define the data to be included in the determination of "holding time". The Commission's rules describe the DEM factor in terms of the measured holding time. As a consequence, the definition of holding time should also be clarified to further describe the minutes to be included in the calculation. For example, the current definition could be modified to simply include a statement that all toll and local minutes are measured based on the traffic that originates and terminates in the local dial office.[21] AT&T submits that such a straightforward

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[21] As thus revised, the definition would provide:

> "Holding Time: The time in which an item of telephone plant is in actual use either by a customer or an operator. For example, on a completed telephone call, holding includes conversation time as well as other time in use. *Holding time*

(footnote continued on following page)

definition of holding time would provide valuable additional certainty and verifiability of LEC computations of the DEM factor.

III. THE COMMISSION SHOULD ELIMINATE PUBLIC NOTICE OF NON-DOMINANT CARRIERS' DISCONTINUANCE APPLICATIONS, OR ALTERNATIVELY SHOULD ADOPT A DEADLINE FOR RELEASE OF SUCH NOTICES.

In 1999, the Commission adopted revisions to its rules implementing Section 214 of the Communications Act (47 U.S.C. § 214) that were intended to significantly streamline exit certification procedures to allow almost all applications for discontinuance of domestic service to take effect automatically without additional Commission action.[22] As the Commission recognized there, the existence of serious barriers to exit may significantly dampen, or entirely deter, carriers from assuming the risks of entry into new markets.[23] Accordingly, although the Commission there retained the requirement for certification of service discontinuances by carriers, it adopted a streamlined procedure under which such discontinuance applications by a non-dominant

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(Footnote continued from preceding page)

> *includes minutes of use originating plus terminating at the local dial office.* At local dial offices any measured minutes which result from other than customer attempts to place calls (as evidenced by the dialing of at least one digit) are not treated as holding time." (Emphasis supplied)

22 *See Implementation of Section 402(B)(2)(A) of the Telecommunications Act of 1996; Petition for Forbearance of the Independent Telephone & Telecommunications Alliance*, CC Docket No. 97-11 and AAD 98-43, FCC 99-104 (rel. June 30, 1999) ("*Section 214 Streamlining Order*").

23 *Id.*, ¶ 26.

carrier will take effect automatically after 31 days unless the Commission notifies the filing carrier that its applications will not be automatically granted.[24]

However, in an innocuous-appearing action that has had profound untoward effects undoing the Commission's stated intent to streamline market exit, the Commission's revised rule adopted a provision that "[f]or purposes of this section, an application will be deemed filed *on the date the Commission releases public notice of the filing.*"[25] While on its face the purely ministerial act of issuing such a public notice should not have been expected to create substantial delay and perpetuate significant uncertainty concerning a carrier's announced plan to discontinue all or some part of its current service, in practice this provision has had precisely those effects because the Commission has often unreasonably delayed its release of the public notice that commences the 31 day period for an otherwise-automatic discontinuance.

In a notable recent instance of such an unconscionable delay, AT&T filed an application on April 7, 2003 for discontinuance of its Multiquest 900 Service to be effective December 31, 2003. The Commission, however, failed to issue a public notice of AT&T's application until July 9, 2003.[26] No explanation or justification has ever been provided for that delay in performing this simple paperwork function.

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24 *Id.*, ¶ 29 and Section 63.71 of the Commission's rules, 47 C.F.R. § 63.71.

25 47 C.F.R. § 63.71(c)(emphasis supplied).

26 Public Notice, *Comments Invited on AT&T Communications Application to Discontinue Domestic Telecommunications Service*, CPD File No. 645, DA 03-2254 (rel. July 9, 2003).

But even apart from such unexplained delays, using the release of the public notice as the triggering event for the 31 day automatic discontinuance period serves no rational purpose because the filing carrier is already required to provide all affected customers with individualized notice of its planned discontinuance concurrently with the filing of its application with the Commission.[27] Section 63.71 also requires the carrier to provide notification, and to submit a copy of the discontinuance application filed with the Commission, to the public service commissions and the Governors of all states in which the discontinuance is proposed and to the Secretary of Defense.[28] These obligatory notices by non-dominant carriers must contain language prescribed by the Commission advising that discontinuance will be automatically granted in the ordinary course, and advising that any objections should be filed with the Commission within 15 days after the notification is received.

These existing provisions of the Commission's rules afford ample opportunity for interested parties (including both customers and public agencies) to present to the Commission any arguments for denial or deferral of a proposed service discontinuance, and for the Commission to preliminarily evaluate any such claims to determine whether it should announce that the automatic service discontinuance will not be allowed to take effect.

Instead of taking steps to adapt the Commission's current Part 63 regulations to recognize these realities, the *NPRM* proposes (¶ 38) to further embed the

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27 47 C.F.R. § 63.71(a).

28 *Id.*

current illogical process in those rules "to more accurately reflect actual notice periods and procedures." Specifically, the Commission proposes to modify the customer notice prescribed in Section 63.71 to state that objections to the proposed discontinuance must be filed "as soon as possible" but "no later than 15 days after the Commission releases public notice of the proposed discontinuance."[29] The proposed modification does nothing to advance the interests of free market exit that the *Section 214 Streamlining Order* sought to promote. Rather, it fosters even greater uncertainty about a carrier's ability to cease offering unprofitable services and creates perverse incentives for customers to delay making known to the Commission any objections they may have to such discontinuances, rather than registering them "as soon as possible."

As shown above, the public notice requirement serves no legitimate regulatory purpose in the context of service discontinuances by non-dominant carriers and should be eliminated entirely. Alternatively, if the public notice requirement is not repealed the Commission should, at a minimum, modify its rules to require that the public notice will be released within a brief stated period, such as 10 business days following the filing of the carrier's application. Adoption of such a deadline will at least afford the filing carrier an enforceable right to have the automatic discontinuance period triggered, instead of being exposed to having its application pigeonholed for an indeterminate period as under the current practice.

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29 *NPRM*, Appendix A.

CONCLUSION

For the reasons stated, the Commission should adopt the revisions to its rules proposed in the *NPRM*, with the modifications described by AT&T in these Reply Comments.

Respectfully submitted,

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May 3, 2004

CERTIFICATE OF SERVICE

I, Tracy Lea Rudnicki, do hereby certify that on this 3rd day of May 2004, a copy of the foregoing "AT&T Reply Comments" was served by U.S. first class mail, postage prepaid, on the parties listed below.

/s/ Tracy Lea Rudnicki
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